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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/728,020

12/01/2000

Richard G. Ogier

SRI/4297-2

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52197 7590 06/12/2008

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EXAMINER

CHOUDHURY, AZIZUL Q

ART UNIT

PAPER NUMBER

2145

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/728,020	<b>Applicant(s)</b> OGIER ET AL.	
	<b>Examiner</b> AZIZUL CHOUDHURY	<b>Art Unit</b> 2145	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
they are not deemed fully persuasive.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☒ Other: See Continuation Sheet.

/Jason D Cardone/  
 Supervisory Patent Examiner, Art Unit 2145

/A. C./  
 Examiner, Art Unit 2145

Continuation of 13. Other:

The first point of contention involves the claim feature of a source node rooted at the tree. The applicant contends that the Gupta art teaches away from this claim feature because Gupta's core node (the node the examiner deemed equivalent to the claimed source node) is not the source of the message. First, the applicant contends that according to the specifications the claimed "source node" produces an update message. The examiner disagrees with this first assertion the production of a message is not claimed, hence it is not in question. However even if the trait were to be claimed, the production of a message inherently must occur if a message is to be initiated and sent, as it is in Gupta's design from the core node (equivalent to the claimed "source node"). In addition, Gupta clearly states that the core node (equivalent to the claimed source node) initiates multicasting (sending messages) (see section 3.1.1, second paragraph, Gupta). That is, the core node is the source of the messages, as claimed. Gupta also teaches a multicast tree rooted at the core node (again, equivalent to the claimed source node) (see section 3.1.1, first paragraph, Gupta).

The second point of contention involves the claim language feature of: "updating the table of network topology in response to the information in the update message received via the path tree." The applicant insists that the Gupta and Humblet prior arts do not teach such features. The examiner disagrees with this assertion. Gupta in view of Humblet teaches the trait of "updating the table of network topology in response to the information in the update message received via the path tree." Gupta teaches how event messages (such as a new node is joining or a node is still connected) are sent throughout the nodes (section 2 and section 3.5, Gupta). The messages travel via a multi-hop technique, allowing the messages to travel through nodes through their path tree. Humblet teaches how each of the nodes is able to maintain its own event databases (tables) (column 3, lines 50-59, Humblet) so that event messages can be stored within each node. Gupta in view of Humblet also teaches the trait of "such that the topology information for the network is globally updated across the plurality of nodes." This is true because Gupta states that the multi-hop network "guarantees message delivery to all multicast nodes..." (Abstract, Gupta).